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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
GROUP ART UNIT 3506

In re

Patent Application of

Johannes H. Megens

Serial No. 08/532,415

Filed: September 22, 1995

"MOVABLE LOADING BRIDGE HAVING
AN INFLATABLE FLEXIBLE BODY"

I, Mary A. Hietpas, hereby certify that this correspondence is being deposited with the US Postal Service as first class mail in an envelope addressed to Assistant Commissioner for Patents, Washington, D.C. 20231, on the date of my signature.

Mary A. Hietpas
Signature

June 18, 1996
Date of Signature

RESPONSE TO OFFICE ACTION

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Office Action dated March 5, 1996, please amend the above-identified patent application as follows:

In the Specification:

At page 2, line 59, please change "buttons" to read -- buttons 60--.

At page 4, lines 6-7, change "bellows 41" to read -- bellows 41, such as an air spring--.

In the Claims:

2. (Amended) A loading bridge as claimed in claim 1, wherein said pivot means further comprises means for filling said inflatable flexible body with air, said means for

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inflating comprising a ventilator[blower] positioned under said inclined base.

61/ 3. (Amended) A loading bridge as claimed in claim 1, wherein said flexible body is a bag made of polyethylene which covers[engages] a substantial portion of a bottom surface of the substantially planar member.

5. (Amended) A loading bridge as claimed in claim 1, further comprising[:]

a front skirt extending downwardly from a front portion of a bottom surface of the substantially planar member; and

first and second side skirts extending downwardly from opposite side portions of the bottom surface of the substantially planar member;[,] wherein when said flexible body is in a deflated condition said flexible body is stored between said front skirt and said first and second side skirts in a folded fashion, and wherein as said flexible body is inflated side portions of said flexible body are played out from the skirts onto a housing of the loading platform.

13. (Amended) Loading bridge for making a connection between a loading platform and vehicle, comprising:

a substantially planar member pivotally connected to the loading platform and capable of bearing a load, wherein a rear edge portion of said substantially planar member is hinged along a surface of the loading platform, and wherein a front edge is movable in a direction perpendicular to said surface of the loading platform;

a base positioned under said planar member;

pivot means for pivoting said substantially planar member, said pivot means comprising an inflatable flexible body; and

means for inflating said inflatable flexible body, said means for inflating including a ventilator[blower] positioned under said base.

14. (Amended) A loading bridge as claimed in claim 13, wherein said base includes a hole for allowing communication between said inflatable flexible body and said ventilator[blower].

15. (Amended) A loading bridge as claimed in claim 13, wherein said inflatable flexible body includes an opening in a bottom portion for allowing communication with said ventilator[blower].

Cancel claims 22-24

REMARKS

Initially, Applicant's attorney thanks the Examiner for the courtesy extended during the personal interview on May 23, 1996.

The Office Action dated March 5, 1996 and the cited references have been reviewed in relation to the claims of the present patent application. In light of the above amendments and the remarks provided below, Applicant respectfully requests reconsideration and allowance of the present application.

The Examiner notes that the assignee has not submitted a statement under 37 CFR §3.73(b). To correct the problem, Applicant

submits herewith a Statement Under 37 CFR § 73(b) signed by Lawrence Johnson, Chief Executive Officer of the assignee.

The Examiner has rejected all claims as being based upon a defective reissue declaration. More specifically, the Examiner contends that the reissue declaration is defected in four enumerated respects. In response, Applicant submits herewith a Supplemental Reissue Declaration that is believed to satisfy the Examiner's concerns. Withdrawal of the rejection is accordingly requested.

Claim 2 stands rejected under 35 U.S.C. §251 as being broadened after the two year statutory period. In response, Applicant explicitly does not acquiesce to Examiner's position that claim 2 would be interpreted any broader than claim 2 as issued. Nevertheless, in order to further prosecution of this application, Applicant has amended the relevant portion of claim 2 back to its originally-issued condition, and withdrawal of the rejection is requested.

The specification is rejected under 35 U.S.C. §112, first paragraph, for failing to provide an enabling disclosure of how to detachably connect the flexible body to the planar member using buttons. Claim 21 is rejected for the same reasons. Applicant respectfully disagrees with the Examiner's position.

The enablement standard is determine from the perspective of a person skilled in the art. In this field, the person of ordinary skill in the art would at least be someone with a high school education, and would certainly be someone who is cognizant of what a button is and how it works. Such a person of ordinary skill would understand that a button provides a detachable connection between two items. The specification clearly states that the flexible body (e.g., bag) may be connected to the filling piece

(which is integral with the planar member) by buttons [col. 2, lines 57-59]. This conveys a detachable connection between the flexible body and the planar member that could be arrived at in a number of ways. For example, the buttons could be attached to the planar member and the flexible body could be provided with corresponding button holes. Alternatively, the buttons could be secured to the flexible body and button holes could be formed in or attached to the planar member. This is not a complicated procedure, and could easily be understood and performed by a person skilled in the art given the disclosure in the specification. Accordingly, it is submitted that the specification is fully enabling, and withdrawal of all related rejections is respectfully requested.

The drawings are objected to under 37 CFR §1.83(a) on the grounds that they do not show the claimed buttons of claim 21. To correct the problem, Applicant submits herewith a Letter Submitting Proposed Drawing Changes, which seeks to amend Figs. 2 and 3 to schematically illustrate the flexible body "buttoned" to the planar member, as shown in red ink on the enclosed drawings. Further, Applicant has amended the specification to include a reference numeral for the buttons. No new matter has been added. The proposed changes to the drawings merely add subject matter already described in the Specification at column 2 lines 57-59. Entry of this amendment to the drawings and withdrawal of the objection are respectfully requested.

The specification stands objected to as failing to provide proper antecedent basis for the terms "engages" (claim 3), "blower" (claims 2 and 13-15), and "air spring" (claim 7). In response, Applicant has amended the relevant portions of claims 2 and 3 to their originally-issued condition. Furthermore, Applicant has

amended the specification at page 4, lines 6-7, to provide antecedent basis in the specification for "air spring", which was present in the original application claim 6 as filed. These amendments are believed to remedy the Examiner's concerns, and withdrawal of the objection is requested.

Substantively, claims 1, 8 and 12 stand rejected under 35 U.S.C. §103 as being unpatentable over U.S. Patent No. 3,659,899 to Phillips et al. ("Phillips"). Claim 1 is directed to a loading bridge for making a connection between a loading platform and vehicle. The loading bridge is defined as having a substantially planar member pivotally connected to the loading platform, an inclined base positioned under the substantially planar member, and pivot means for pivoting the substantially planar member. The pivot means includes an inflatable flexible body positioned on the inclined base. By virtue of the inclined base, the stresses induced in the flexible body are more uniform than if the base were horizontal, thereby decreasing the likelihood that the flexible body will tear. Further, the inclined base can provide a space underneath the base to facilitate positioning of mechanical components (e.g., ventilator, valves, etc.) and to enhance access to other areas of the pit. Also, the inclined base reduces the necessary volume of the inflatable flexible body and enhances stability of the flexible body.

In contrast, Phillips discloses a loading dock having a loading platform (62) and a pit defined by a level (i.e., horizontal) floor (65). A section (63) is pivotally attached to the platform, and a bag (66) is positioned under the section to provide movement to the section. The loading dock of Phillips does not have an inclined base. Furthermore, nothing in Phillips provides a suggestion or motivation to modify the floor to achieve

the claimed invention. Absent such a suggestion or motivation in the prior art, obviousness has not been established. In re Mills, 16 USPQ2d 1430,32 (Fed. Cir. 1990).

The Examiner states that "it would have been obvious to incline the base to facilitate water drainage or to change the angle of incidence of the force supplied to the substantially planar member." However, the Examiner can not point to a suggestion in the prior art that sets forth the desirability of making the modification to the Phillips device to achieve the claimed invention. Accordingly, stating that "it would have been obvious" is hindsight, and clearly an improper rejection. For these reasons, it is respectfully requested that the rejections of claims 1, 8 and 12 be withdrawn.

Claims 2, 6-7 and 13-21 stand rejected under 35 U.S.C. §103 as being unpatentable over Phillips in view of U.S. Patent No. 3,784,255 to Smock ("Smock"). Claim 2 is dependent from claim 1 and further defines a ventilator positioned under the inclined base. Such positioning of the ventilator advantageously protects the ventilator from damage that can be caused by exposure to the elements (e.g., rain, wind, snow, salt, etc.), exposure to contamination (e.g., dirt or fluid falling from above), contact with moving objects, or tampering by unauthorized personnel.

As noted above, Phillips discloses a loading dock that includes a bag for moving a pivotable section. Exhaust gas is provided to the bag by the exhaust pipe of a vehicle. Smock discloses a dump vehicle having a chassis frame (10) and a series of dump bodies (12) that are tiltable using air bag assemblies (35). Air is provided to the air bag assemblies by air tanks (48) mounted on a front portion of the chassis frame. Neither the Phillips device nor the Smock device discloses an inclined base and

a ventilator positioned under the inclined base. More specifically, neither device, alone or in combination, provides a suggestion or motivation to use an inclined base, and therefore obviousness has not been established. Id. Furthermore, neither device, alone or in combination, provides a suggestion or motivation to position a ventilator under an inclined base, and therefore obviousness has not been established. Id. For each of the above-noted reasons, it is submitted that claim 2 is allowable over Phillips and Smock.

Claims 6 and 7 are dependent from claim 1, and are allowable for the reasons noted above with respect to claim 1.

Claims 13-15 are directed to a loading bridge for making a connection between a loading platform and vehicle. The loading bridge is defined as having a substantially planar member pivotally connected to the loading platform, a base positioned under the substantially planar member, pivot means including a flexible inflatable body for pivoting the substantially planar member, and means for inflating the flexible inflatable body. The inflating means includes a ventilator positioned under the base. By virtue of the positioning of the ventilator under the base, the ventilator will be protected from damage that can be caused by exposure to the elements (e.g., rain, wind, snow, salt, etc.), exposure to contamination (e.g., dirt or fluid falling from above), contact with moving objects, or tampering by unauthorized personnel.

As noted above, Phillips discloses a loading dock that includes a bag for moving a pivotable section. Exhaust gas is provided to the bag by the exhaust pipe of a vehicle. Smock discloses a dump vehicle having a chassis frame (10) and a series of dump bodies (12) that are tiltable using air bag assemblies (35). Air is provided to the air bag assemblies by air tanks (48)

mounted on a front portion of the chassis frame. Neither the Phillips device nor the Smock device disclose a ventilator positioned under a base as claimed. More specifically, neither device, alone or in combination, provides a suggestion or motivation to position a ventilator under a base, and therefore obviousness has not been established. Id. For this reason, it is submitted that claims 13-15 are allowable over Phillips and Smock.

Claims 16-19 are directed to a loading bridge for making a connection between a loading platform and vehicle. The loading bridge is defined as having a substantially planar member pivotally connected to the loading platform, a base positioned under the substantially planar member, and pivot means including a flexible inflatable body for pivoting the substantially planar member. The pivot means includes an inflatable flexible body having a periphery that is spaced inwardly from a periphery of the planar member. The inwardly-spaced periphery of the inflatable flexible body facilitates the use of high pressure fluid, such as highly pressurized air, which is readily accessible at many manufacturing facilities. Accordingly, a separate source of pressurized fluid may not be required.

As noted above, Phillips discloses a loading dock that includes a bag for moving a pivotable section. The bag covers substantially the entire bottom surface of the section. Smock discloses a dump vehicle having a chassis frame (10) and a series of dump bodies (12) that are tiltable using air bag assemblies (35). Neither of the cited references teaches the claimed loading bridge having a pivotally-mounted planar member and a flexible body with a periphery spaced inwardly from the periphery of the planar member. Further, the Examiner has not pointed to any specific teaching, suggestion or incentive supporting the combination, and

therefore obviousness cannot be established. In re Bond, 15 USPQ2d 1566 (Fed. Cir. 1990). Although the Phillips device could arguably be modified to achieve the loading bridge defined by claim 16, there must be a suggestion or motivation in the reference to do so. In re Mills, 16 USPQ2d at 1432. For these reasons, it is respectfully requested that the rejections of claims 16-19 be withdrawn.

Claims 20-21 are directed to a loading bridge for making a connection between a loading platform and vehicle. The loading bridge is defined as having a substantially planar member pivotally connected to the loading platform, a base positioned under the substantially planar member, pivot means including an inflatable flexible body for pivoting the substantially planar member, and means for detachably connecting the upper surface of the flexible body to the lower surface of the planar member. The detachably connecting means facilitates quick and easy removal of the flexible body for repair and/or replacement.

Initially, it is noted that the Examiner has provided no teaching, suggestion or incentive in the prior art for combining Phillips with Smock, and on this ground alone the obviousness rejection must fail. In re Bond, 15 USPQ2d 1566 (Fed. Cir. 1990). Furthermore, even if properly combined, the references do not meet the claimed loading bridge. More specifically, Phillips and Smock do not disclose the claimed loading bridge with a detachable connection between the bag and the section. The Examiner contends that the rings (37) of Smock illustrate the claimed invention. The rings are described as "clamping-ring units" for securing the upper end of the air bag assemblies to the body. However, Applicant could find no teaching, suggestion or motivation in Smock for making the air bag assemblies detachably connected to the body in

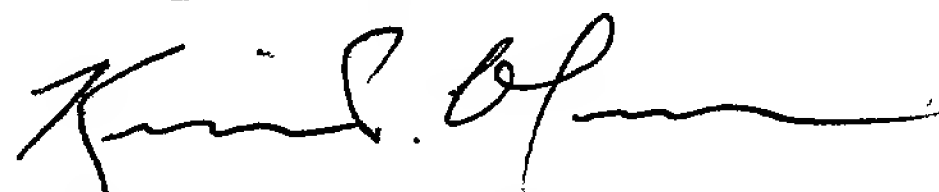
the claimed manner, and therefore obviousness has not been established. In re Mills at 1432. Accordingly, it is submitted that claims 20 and 21 are allowable over Phillips in view of Smock.

Claim 3 is rejected under 35 U.S.C. §103 as being unpatentable over Phillips in view of U.S. Patent No. 3,822,861 to Scott ("Scott"). Claim 4 is rejected under 35 U.S.C. §103 as being unpatentable over Phillips in view of Australian Patent No. 588,734 to Beer ("Beer"). Both claim 3 and claim 4 are dependent from claim 1. Claims 3 and 4 are allowable over the cited references for the reasons noted above with respect to claim 1.

Claims 9-11 and 22-24 stand rejected under 35 U.S.C. §103 as being unpatentable over Phillips in view of U.S. Patent No. 3,902,213 to Pfleger et al. ("Pfleger"). Claims 9-11 are dependent on claim 1, and are allowable for the reasons noted above with respect to claim 1. Claims 22-24 have been cancelled, and therefore the rejections of those claims are moot.

The Examiner is invited to contact the undersigned attorney should the Examiner determine that such action would facilitate prosecution of this application.

Respectfully submitted,



Kevin P. Moran
Reg. No. 37,193

File No. 53142/9086

Michael, Best & Friedrich
100 E. Wisconsin Avenue
Milwaukee, WI 53202
(414) 271-6560



Supplemental Reissue Application Declaration and
Power of Attorney by Assignee

Lawrence E. Johnson, President of Kelley Company, Inc., declare: that I am a citizen of the United States and resident of Wisconsin; that the entire title to U.S. Patent Number 5,042,103, granted on August 27, 1991, to Johannes H. Megens is vested in Kelley Company, Inc.; that I believe said named inventor to be the original, first and sole inventor of the subject matter which is described and claimed in the aforesaid letters patent and in the foregoing specification and for which invention I solicit a reissue patent;

This Supplemental Reissue Application Declaration is intended to supplement the original Reissue Application Declaration filed with the reissue application on September 22, 1995. I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to in the oath or declaration.

I acknowledge the duty to disclose information that is material to patentability as defined in 37 C.F.R. 1.56., namely, information where there is a substantial likelihood that a reasonable examiner would consider it important in deciding whether to allow the application to issue as a patent.

I hereby appoint JOSEPH A. GEMIGNANI, (Reg No. 19,482), ROBERT E. CLEMENCY (Reg. No. 19,287), DAVID B. SMITH (Reg. No. 27,595), GLENN A. BUSE (Reg. No. 24,217), FRED WIVIOTT (Reg. No. 19,158), ANDREW O. RITERIS (Reg. No. 20,916), DAVID R. PRICE (Reg. No. 31,557), ROBERT S. BEISER (Reg. No. 38,687), BAYARD H. MICHAEL (Reg. No. 15,974), JOANNE M. DENISON (Reg. No. 34,150), TIMOTHY M. KELLEY (Reg. No. 34,201), KENNETH D. WAHLIN (Reg. No. 34,944), BILLIE JEAN STRANDT (Reg. No. 36,940), THOMAS A. MILLER (Reg. No. 36,871), and KEVIN P. MORAN (Reg. No. 37,193), 100 East Wisconsin Avenue, Milwaukee, Wisconsin 53202-4108, Telephone (414) 271-6560, and each or any of them, my attorneys or agents, with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

ADDRESS ALL COMMUNICATIONS IN OR PERTAINING TO THIS APPLICATION TO:

David B. Smith
MICHAEL, BEST & FRIEDRICH
100 East Wisconsin Avenue
Milwaukee, WI 53202-4108

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of the foreign application for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Application

<u>Number</u>	<u>Country</u>	<u>Day/Month/Year Filed</u>	<u>Priority Claimed</u>
8900557	Netherlands	7/03/89	Yes

STATEMENT OF INOPERATIVENESS OR INVALIDITY
OF ORIGINAL PATENT
37 CFR 1.175

I believe the original patent to be partly invalid by reason of:

- (1) the specification, drawings and/or claims are defective, rendering the patent partly inoperative; and
- (2) the patentee claiming more than he had a right to claim in the patent to the extent that the patentability of some of the claims over the prior art is questionable.

Specifically, the defects, excesses or insufficiencies reside

- (1) the absence of the claim term "air spring" in the specification, in violation of MPEP 608.01(1);
- (2) the absence of an illustration of buttons in the drawings, and the corresponding absence of a reference numeral in the specification; and
- (3) claims 1 and 2 claiming more than the patentee had a right to claim, due to the claiming of a loading bridge having a planar member pivotally connected to the loading platform and an inflatable flexible body for pivoting the planar member, in light of U.S. Patent No. 3,659,899 to Phillips ("Phillips"), filed March 12, 1970 and issued May 2, 1972;

The above-noted defects, excesses or insufficiencies resulted from errors in the specification and claims, the specifics of which are set forth below.

The error in the specification is in the omission of the claimed term "air spring". This term appeared in claim 6 as originally filed, and also appeared in claim 7 as issued. This error occurred during preparation and prosecution of the application for the original patent, and arose because neither the Applicant nor the Examiner noticed the insufficiency. This error was discovered by the Applicant on or about March 7, 1996, when the Examiner of this reissue application pointed out the error.

To correct the error, the specification at page 4, lines 6-7 has been amended to further specify that the bellows 41 could be an air spring.

The error in the drawings resides in the omission of an illustration of buttons for detachably connecting the flexible body to the filling piece (which is connected to the planar member). In addition, there is no reference numeral in the specification to indicate the buttons in the drawings. This error was discovered by the Applicant on or about March 7, 1996, when the Examiner of this reissue application pointed out the error.

To correct the error, Applicant submits herewith a Request for Entry of Drawing Changes, which adds a schematic representation of the buttons along with a corresponding reference numeral. In addition, Applicant has amended the specification to add the reference numeral for the buttons.

The errors in claims 1 and 2 are in the omission of certain limitations that distinguish over Phillips. Limitations that were omitted from the claims and that distinguish over Phillips include: (a) an inclined base; (b) a base positioned under the planar member and a blower positioned under a base; (c) an inflatable flexible body having a periphery that is spaced inwardly from a periphery of the planar member; or (d) means for detachably connecting the inflatable flexible body with the planar member. These errors occurred during preparation and prosecution of the application for the original patent, and arose because Phillips was not of record and therefore was presumably not considered by the Examiner during prosecution of the original application. These errors were discovered when Phillips was discovered and compared to the claims of the original patent. Phillips was found during a patent search on about June 14, 1993.

To correct the errors to claims 1 and 2, this reissue application:

- (a) amends original claims 1 and 2 to further recite that the loading bridge includes an inclined base positioned under the platform, and that the flexible body is positioned on the inclined base;
- (b) amends claim 2 to recite that the means for inflating comprises a blower positioned under the inclined base;
- (c) adds new claim 12 to further recite that the inclined base is angled upwardly and rearwardly;
- (d) adds new claims 13-15 to further recite a blower positioned under the base;
- (e) adds new claims 16-19 to further recite that the flexible body has a periphery that is spaced inwardly from a periphery of the planar member; and
- (f) adds new claims 20-21 to further recite a means for detachably connecting an upper surface of the flexible member to a lower surface of the planar member.

The specified limitations render these claims patentable over Phillips.

It is noted that new claims 22-24 are the same as originally-allowed claims 9-11.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of sole inventor: Johannes H. Megens

Residence: _____

Citizenship: _____

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Lawrence E. Johnson
President

OFFICE OF THE
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WASHINGTON, D. C. 20540



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
GROUP ART UNIT 3506

Patent Application of

Johannes H. Megens

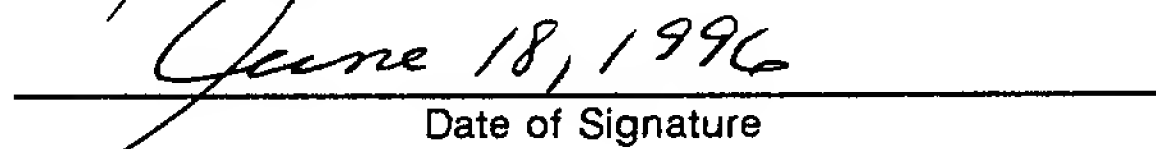
Serial No. 08/532,415

Filed: September 22, 1995

"MOVABLE LOADING BRIDGE HAVING
AN INFLATABLE FLEXIBLE BODY"

I, Mary A. Hietpas, hereby certify that this correspondence is being deposited with the US Postal Service as first class mail in an envelope addressed to Assistant Commissioner for Patents, Washington, D.C. 20231, on the date of my signature.


Signature


Date of Signature

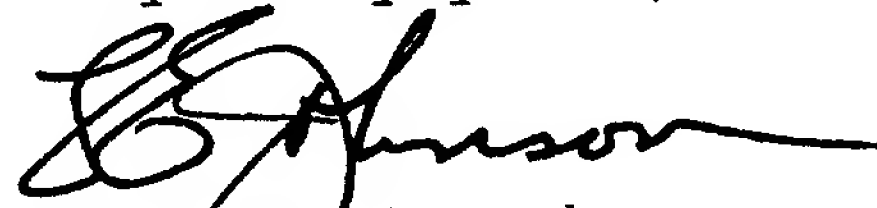
STATEMENT UNDER 37 CFR §3.73(b)

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Pursuant to 37 CFR §3.73(b), assignee hereby specifies that evidence of ownership of the above identified patent application in the name of Kelly Company, Inc. is recorded in the Patent Office at Reel 7327, Frames 257-258. Assignee further specifies that the evidentiary documents have been reviewed, and further certifies that, to the best of assignee's knowledge and belief, title for the above-identified patent application is in the name of Kelly Company, Inc. seeking to take action in this application.

Very truly yours,


Lawrence E. Johnson
President,
Kelley Company, Inc.